

REMARKS

Restriction On Claims

The Examiner has restricted the claims into ten groups:

- claims 39 and 40 (Group I),
- claims 41 – 43 (Group II),
- claims 44 – 48 (Group III),
- claims 49 (Group IV),
- claim 50 – 57 (Group V),
- claims 58 – 66 (Group VI),
- claims 67 – 69 (Group VII),
- claims 70 – 75 (Group VIII),
- claims 76 – 77 (Group IX), and
- claim 78 (Group X)

As discussed below, the applicants respectfully traverse the restriction requirement on Groups IV and X on the grounds that the Examiner can search and examine the claims in each of these groups without serious burden. Although the applicants traverse the restriction requirement as discussed below, they provisionally elect to prosecute the claim 49 of Group IV if the Examiner does not withdraw the restriction requirement.

According to MPEP §803, if the Examiner can search and examine the application without serious burden, then he/she must examine the application on the merits, even though it includes claims to independent or distinct inventions. Under the same rule, the applicants assert that if the Examiner can search and examine the claims in each of two groups, then he/she must examine the claims in both groups on the merits, even though both groups include claims to independent or distinct inventions. As discussed below, because claim 49 and claim 78 recite similar subject matter, the Examiner can perform a single search and examination that will cover both of these claims. Consequently, the Examiner can search and examine the application without serious burden, and, therefore, must examine claims 49 and 78.

More specifically, claim 49 recites:

A truck comprising:

a motor;

a truck body;

a bogie assembly attached to the truck body and including a retractable bogie, a drive wheel and a belt attached to the bogie and drive wheel, wherein the bogie assembly is operable to suspend a portion of the belt away from the surface and is operable to force a portion of the belt against the surface.

a drive shaft disposed within the truck body and attached to the motor and operable to transmit the power generated by the motor to the drive wheel; and

a steering sprocket attached to the truck body and operable to rotate the truck body.

And claim 78 recites:

A method of traversing an obstruction on a surface comprising:

sensing the obstruction;

lifting a bogie of a bogie assembly higher than the obstruction;

contacting the obstruction with a belt of the bogie assembly; and

powering a drive wheel along the belt while the belt contacts the obstruction.

Because claims 49 and 78 (Groups IV and X) respectively recite a truck, including a motor, a body, a drive shaft, a steering sprocket and a bogie assembly that has a retractable bogie, a drive wheel and a belt, and a method for traversing an obstruction on a surface using functions related to these elements, and because the Examiner classifies the claims of Group IV and the claims of Group X in the same class (180), the Examiner can perform a single search for claims 49 and 78. Furthermore, because these claims recite

related subject matter, examination of these claims will involve similar analyses. Therefore, it is only slightly more burdensome for the Examiner to search and examine claims 49 and 78 than it would be for him to search and examine the provisionally elected claim 49 of Group IV.

Consequently, because there is no serious burden on the Examiner to search and examine claims 49 and 78, the restriction is improper. Therefore, the Examiner must withdraw the restriction on claims 49 and 78 and examine these claims.

Election Of The Bogie Species

Claims 49 and 78 are generic to both the species of FIG. 7A and the species of FIG. 7B. Therefore, although the applicants believe that claims 49 and 78 are generic to both the species of FIGS. 7A and the species of FIG. 7B, the applicants provisionally elect all the claims directed to the species of FIG. 7B (claims 49 and 78) for prosecution.

Election Of The Arrangement Of The Traction Units Species

Claims 49 and 78 are generic to the species of FIG. 1, the species of FIG. 10 and 11, and the species of FIG. 13. Therefore, although the applicants assert that claims 49 and 78 are generic to all the species of FIGS. 1, 10, 11 and 13, the applicants provisionally elect all the claims directed to the species of FIG. 1 (claims 49 and 78) for prosecution.

Election Of The Use Species

Claims 49 and 78 are generic to both the species of FIG. 14 and the species of FIG. 15. Therefore, although the applicants believe that claims 49 and 78 are generic to both the species of FIGS. 14 and the species of FIG. 15, the applicants provisionally elect all the claims directed to the species of FIG. 14 (claims 49 and 78) for prosecution.

CONCLUSION

Therefore, as discussed above, the applicants respectfully request the Examiner withdraw the restriction requirement between the Groups IV and X and examine the claims 49 and 78.

In the event an additional fee is due for this Response, you are hereby authorized to charge such payment to Deposit Account No. 07-1897.

If the Examiner believes that a phone interview would be helpful, he is respectfully requested to contact the applicants' attorney, John M. Janeway, at (425) 455-5575.

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Respectfully submitted,

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